



Interim Audit Report of the Audit Division on the Minnesota Democratic-Farmer-Labor Party (January 1, 2007 - December 31, 2008)

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any of the matters discussed in this report.

About the Committee (p. 2)

The Minnesota Democratic-Farmer-Labor Party is a state party committee with headquarters in St. Paul, Minnesota. For more information, see the chart on the Committee Organization, p. 2.

Financial Activity (p. 3)

• Receipts	
○ Individual Contributions	\$ 1,839,117
○ Political Committee Contributions	2,233,845
○ Transfers from Affiliates	5,898,356
○ Transfers from Non-Federal Accounts	2,394,428
○ Recount Fund Contributions	694,850
○ Offsets and Other Receipts	1,042,345
Total Receipts	\$ 14,102,941
• Disbursements	
○ Operating Expenditures	\$ 6,458,425
○ Federal Election Activity	6,398,033
○ Transfers to Non-Federal Accounts	287,061
○ Contributions to Candidates	20,000
○ Coordinated Expenditures	266,844
○ Recount Expenditures	660,719
Total Disbursements	\$ 14,091,082

Findings and Recommendations (p. 4)

- Misstatement of Financial Activity (Finding 1)
- Over-funding of Federal Accounts by Non-Federal Accounts (Finding 2)

¹ 2 U.S.C. §438(b).

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Part I

Background

Authority for Audit

This report is based on an audit of the Minnesota Democratic-Farmer-Labor Party (MNDFL), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 2 U.S.C. §438(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 2 U.S.C. §434. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 2 U.S.C. §438(b).

Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the receipt of excessive contributions and loans;
2. the receipt of contributions from prohibited sources;
3. the disclosure of contributions received;
4. the disclosure of disbursements, debts and obligations;
5. the disclosure of expenses allocated between federal and non-federal accounts;
6. the consistency between reported figures and bank records;
7. the completeness of records; and
8. other committee operations necessary to the review.

Limitations

The Audit staff's review of the transfer activity between the committee's federal and non-federal accounts was limited because the MNDFL did not maintain adequate records to support the transfers.

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	July 15, 1975 ²
• Audit Coverage	January 1, 2007 – December 31, 2008
Headquarters	
St. Paul, Minnesota	
Bank Information	
• Bank Depositories	Three
• Bank Accounts	13 Federal Accounts
	Five Non-Federal Accounts
Treasurer	
• Treasurer When Audit Was Conducted	Lori Sellner [as of February 18, 2009]
• Treasurer During Period Covered by Audit	William J. Davis
Management Information	
• Attended FEC Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

² The committee registered with the Secretary of the Senate as the Minnesota Dollars for Democrats (a federal committee of the Minnesota Democratic-Farmer-Labor State Party). In 1980, the committee filed an Amended Statement of Organization, changing the name of the committee to the Minnesota Democratic-Farmer-Labor Party.

Overview of Financial Activity (Audited Amounts)

Cash on hand @ January 1, 2007	\$ 225,904
Receipts	
o Individual Contributions	\$ 1,839,117
o Political Committee Contributions	2,233,845
o Transfers from Affiliates	5,898,356
o Transfers from Non-Federal Accounts	2,394,428
o Recount Fund Contributions	694,850
o Offsets and Other Receipts	1,042,345
Total Receipts	\$ 14,102,941
Disbursements	
o Operating Expenditures	\$ 6,458,425
o Federal Election Activity	6,398,033
o Transfers to Non-Federal Accounts	287,061
o Contributions to Candidates	20,000
o Coordinated Expenditures	266,844
o Recount Expenditures	660,719
Total Disbursements	\$ 14,091,082
Cash on hand @ December 31, 2008	\$ 237,763

Part III

Summaries

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

During audit fieldwork, a comparison of the MNDFL's reported financial activity with its bank records revealed a misstatement of receipts and disbursements in calendar years 2007 and 2008. The misstatements were due mainly to unreported transfers from the non-federal accounts to the Payroll account and unreported receipts and operating expenditures. For 2007, the MNDFL understated the beginning cash-on-hand by \$12,957, receipts by \$441,228, disbursements by \$469,230 and overstated the ending cash-on-hand by \$15,045. For 2008, the MNDFL understated receipts by \$1,303,611, disbursements by \$1,205,799 and the ending cash-on-hand by \$82,767. The Audit staff recommends that the MNDFL amend its disclosure reports to correct the misstatements for both 2007 and 2008.

In addition, the Audit staff identified an apparent prohibited contribution contained within the unreported receipts. The Audit staff recommends that the MNDFL either demonstrate that the contributor was permitted to make the contribution or refund the contribution. (For more detail, see p. 5)

Finding 2. Over-funding of Federal Accounts by Non-Federal Accounts

During audit fieldwork, an analysis of the MNDFL's transfers from its non-federal accounts indicated that the MNDFL overfunded its federal accounts by \$277,103. The overfunding resulted from unsupported transfers from the non-federal accounts to the federal accounts, an overfunding of the Payroll account for the non-federal portion of payroll, reported federal activity paid from the non-federal accounts and an underfunding of the federal accounts for the non-federal share of allocable activity.

The Audit staff recommends that the MNDFL provide documentation to show that it did not overfund its federal accounts. If the MNDFL provides no additional documentation, the Audit staff recommends that the MNDFL reimburse the non-federal accounts \$277,103. (For more detail, see p. 10)

Part IV

Findings and Recommendations

Finding 1. Misstatement of Financial Activity

Summary

During audit fieldwork, a comparison of the MNDFL's reported financial activity with its bank records revealed a misstatement of receipts and disbursements in calendar years 2007 and 2008. The misstatements were due mainly to unreported transfers from the non-federal accounts to the Payroll account and unreported receipts and operating expenditures. For 2007, the MNDFL understated the beginning cash-on-hand by \$12,957, receipts by \$441,228, disbursements by \$469,230 and overstated the ending cash-on-hand by \$15,045. For 2008, the MNDFL understated receipts by \$1,303,611, disbursements by \$1,205,799 and the ending cash-on-hand by \$82,767. The Audit staff recommends that the MNDFL amend its disclosure reports to correct the misstatements for both 2007 and 2008.

In addition, the Audit staff identified an apparent prohibited contribution contained within the unreported receipts. The Audit staff recommends that the MNDFL either demonstrate that the contributor was permitted to make the contribution or refund the contribution.

Legal Standard

A. Contents of Reports. Each report must disclose:

- the amount of cash on hand at the beginning and end of the reporting period;
- the total amount of receipts for the reporting period and for the calendar year;
- the total amount of disbursements for the reporting period and for the calendar year; and
- certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2), (3) and (4).

B. Receipt of Prohibited Contributions – General Prohibition. Candidates and committees may not accept contributions (in the form of money, in-kind contributions or loans) from the treasury funds of the following prohibited sources:

- corporations (this means any incorporated organization, including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative);
- labor organizations; or
- national banks. 2 U.S.C. §441b.

C. Contributions by Limited Liability Companies (LLC). A limited liability company is a business entity that is recognized as same under the laws of the state in which it is established. An LLC that elects to be treated as a corporation by the Internal Revenue Service under 26 CFR 301.7701-3 shall be considered a corporation pursuant to

11 CFR Part 114. An LLC that makes a contribution to a candidate or committee shall provide information as to how the contribution is to be attributed and affirm that it is eligible to make the contribution. 11 CFR §110.1(g).

Facts and Analysis

A. Facts

During audit fieldwork, the Audit staff reconciled the MNDFL's reported activity with its bank records and identified a misstatement of receipts and disbursements for calendar years 2007 and 2008. The following charts detail the discrepancies between the totals on the MNDFL's disclosure reports and bank records. Succeeding paragraphs explain why the discrepancies occurred, if known.

2007 Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2007	\$212,947	\$225,904	\$12,957 Understated
Receipts	\$1,381,869	\$1,823,097	\$441,228 Understated
Disbursements	\$1,409,884	\$1,879,114	\$469,230 Understated
Ending Cash Balance @ December 31, 2007	\$184,932	\$169,887	\$15,045 Overstated

The \$12,957 understatement of the beginning cash balance was due mainly to prior period reporting discrepancies.

The understatement of receipts was the net result of the following:

• Unreported transfers from the non-federal account(s) to the Payroll Account for 100 percent non-federal payroll and benefits	\$ 395,072
• Unreported non-payroll transfers from the non-federal account(s)	46,040
• Non-federal share of vendor refunds reported as a negative receipt on Schedule H-3 ³	24,261
• Transfer from the non-federal account reported twice	(5,000)
• Unexplained difference	<u>(19,145)</u>
Net Understatement of Receipts	<u>\$ 441,228</u>

³ A refund of the federal and non-federal share of allocable activity may be disclosed either as negative entries on Schedule H-4 or as a receipt on Line 15 of Schedule A and a disbursement to the non-federal account for the non-federal share on Schedule H-4.

The understatement of disbursements was the net result of the following:

• Unreported 100 percent non-federal salaries, taxes and benefits paid from the Payroll account and federal account(s)	\$ 431,292
• Unreported transfer to the non-federal account	7,000
• Non-federal share of vendor refunds reported as a negative receipt on Schedule H-3	24,261
• Unreported operating expenditures	12,630
• Reported disbursements subsequently voided with no adjustment made to reports	(1,392)
• Reported disbursements that did not clear the federal account(s)	(4,173)
• Unexplained difference	<u>(388)</u>
Net Understatement of Disbursements	<u>\$ 469,230</u>

The \$15,045 overstatement of the ending cash balance resulted from the reporting discrepancies noted above.

2008 Activity			
	Reported	Bank Records	Discrepancy
Beginning Cash Balance @ January 1, 2008	184,932	\$169,887	\$15,045 Overstated
Receipts	\$10,976,233	\$12,279,844	\$1,303,611 Understated
Disbursements	\$11,006,170	\$12,211,969	\$1,205,799 Understated
Ending Cash Balance @ December 31, 2008	\$154,996	\$237,763	\$82,767 Understated

The understatement of receipts was the net result of the following:

• Unreported transfers from the non-federal account(s) to the Payroll Account for 100 percent non-federal payroll and benefits	\$ 827,853
• Unreported non-payroll transfers from the non-federal account(s)	108,975
• Non-federal share of vendor refunds reported as a negative receipt on Schedule H-3	2,716
• Unreported receipts ⁴	402,186
• Unreported in-kind contributions	13,127
• Reported receipt deposited in the non-federal account	(14,627)
• Reported receipts that did not clear the federal account(s)	(21,243)
• Unexplained difference	<u>(15,376)</u>
Net Understatement of Receipts	<u>\$ 1,303,611</u>

⁴ Includes a \$150,000 non-federal receipt deposited into the federal account in error (funds were transferred to the non-federal account), an \$81,000 reimbursement from the non-federal account for a non-federal expenditure paid by the federal account in error, a \$61,000 transfer from a national party committee and a \$16,000 transfer from an authorized committee.

The understatement of disbursements was the net result of the following:

• Unreported 100 percent non-federal salaries, taxes and benefits paid from the Payroll account and federal account(s)	\$ 591,524
• Non-federal share of vendor refunds reported as a negative receipt on Schedule H-3	2,716
• Unreported operating expenditures	406,312
• Unreported bank and credit card fees	38,345
• Unreported transfers to non-federal account(s)	251,450
• Reported disbursements paid from the non-federal account(s)	(51,105)
• Unreported in-kind contributions	16,111
• Reported disbursements subsequently voided with no adjustment made to reports	(33,666)
• Reported disbursements that did not clear the federal account(s)	(24,356)
• Unexplained difference	<u>8,468</u>
Net Understatement of Disbursements	<u>\$ 1,205,799</u>

The \$82,767 understatement of the ending cash balance resulted from the reporting discrepancies noted above.

The discrepancies in financial activity noted above occurred primarily because the MNDFL did not report certain payroll transactions involving the Payroll account and the federal administrative accounts. The MNDFL separated its employees into two classes: 100 percent federal and 100 percent non-federal.⁵ A MNDFL representative stated that the MNDFL established the system to ease the administrative burden of payroll processing. If an employee spent any time working on federal activity during the pay period, he or she was paid 100 percent from federal funds transferred to the Payroll account and the MNDFL disclosed the salary payments on Schedule B. If an employee spent the pay period working solely on non-federal activity, the MNDFL paid them 100 percent from non-federal funds transferred to the Payroll account, but did not report the salary and related costs.

The MNDFL paid all salaries and related employee taxes from one Payroll account administered by MNDFL staff and paid employee health insurance and retirement benefits from the federal administrative accounts. Transfers from the federal and non-federal accounts funded the Payroll account. The Audit staff included the Payroll account as a federal account.⁶ The MNDFL disclosed only the federal activity paid out of the Payroll account and the portion of benefits relating to federal employees paid from the federal administrative accounts. An analysis of the salaries paid to all employees during the audit period showed that the MNDFL paid \$3,176,793 (81 percent) of the salaries as 100 percent federal and \$756,744 (19 percent) as 100 percent non-federal.

⁵ There was no allocated payroll.

⁶ A federal account means an account at a campaign depository that contains funds to be used in connection with a Federal election. 11 CFR §300.2(f).

Subsequent to the period under audit, the MNDFL established a separate non-federal Payroll account.

The MNDFL also processed the payroll costs for the employees of three federal candidate committees and included them in the payroll amounts above. The candidate committees reimbursed the MNDFL to offset the payroll costs for their employees. The MNDFL and the candidate committees properly disclosed the salary payments and reimbursements. The MNDFL made expenditures for salary payments totaling \$731,449 and the candidate committees reimbursed the MNDFL \$705,734. The salary payments in excess of the reimbursement amount (\$25,715) resulted in an in-kind contribution to the candidates from the MNDFL.⁷

A \$10,000 contribution from South Clinton Street Investments, LLC (SCSI) was included among the 2008 unreported in-kind contributions. During the 2008 Democratic National Convention held in Denver, Colorado, the MNDFL contracted with the Four Points by Sheraton Denver Southeast to provide catering services for the Minnesota State delegation. On August 24, 2008, the committee paid the hotel a deposit of \$17,634. The hotel provided catering services on August 25 – 29, 2008, totaling \$36,943, leaving a balance due of \$19,309. On September 22, 2008, the hotel applied a \$10,000 check drawn on the operating account of SCSI to the MNDFL's account. The MNDFL did not report this in-kind contribution and the Audit staff did not find any documentation in the MNDFL's files to show that SCSI was permitted to make the contribution.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, Audit staff provided the MNDFL representatives with workpapers detailing the misstatements of financial activity, including the apparent prohibited contribution. Regarding the Payroll account, counsel for the MNDFL stated that the Payroll account was neither a federal nor a non-federal account, but merely a pass-through account established to reduce the administrative workload of the MNDFL, and only the expenditures related to federal activity needed to be reported.⁸

Audit staff and the MNDFL representative discussed the contribution from SCSI before and at the exit conference. Audit staff requested that MNDFL provide information and/or documentation to show that the payment was either not a contribution or that SCSI was permitted to make a contribution. To date, the MNDFL has not submitted any additional documentation concerning this matter.

⁷ The Audit staff concluded that the excess salary payments made on behalf of two of the candidates were permissible because they did not exceed the contribution limit for a state party committee to a federal candidate. For the remaining candidate, the in-kind contribution exceeded the contribution limit by \$11,368. Since the MNDFL had not exceeded its limit for coordinated expenditures for this candidate, the Audit staff concluded that the excess payments were permissible.

⁸ In the Final Audit Report of the Commission on the Georgia Federal Elections Committee, where funds were transferred from federal and non-federal accounts to a payroll escrow account at the request of a third party payroll vendor that could not draw funds from two different accounts, the Commission concluded that the committee did not have to further amend its reports in relation to transactions involving the payroll escrow account.

The Audit staff recommends that, within 30 calendar days of receipt of this report, the MNDFL:

- amend its reports to correct the misstatements for 2007 and 2008 as noted above;
- amend its most recent report to correct the cash-on-hand balance with an explanation that the change resulted from a prior period audit adjustment;
- reconcile the cash balance of its most recent report to identify any subsequent discrepancies that may affect the adjustment recommended by the Audit staff; and
- provide evidence to show that the unreported in-kind payment made by South Clinton Street Investments, LLC was either not a contribution or that SCSI was permitted to make a contribution. Absent such evidence, the Audit staff recommends that the MNDFL report the in-kind contribution and refund \$10,000 to South Clinton Street Investments, LLC.

Finding 2. Over-funding of Federal Accounts by Non-Federal Accounts

Summary

During audit fieldwork, an analysis of the MNDFL's transfers from its non-federal accounts indicated that the committee may have overfunded its federal accounts by as much as \$277,103. The overfunding resulted from unsupported transfers from the non-federal accounts to the federal accounts, an overfunding of the Payroll account for the non-federal portion of payroll, reported federal activity paid from the non-federal accounts and an underfunding of the federal accounts for the non-federal share of allocable activity.

The Audit staff recommends that the MNDFL provide documentation to show that it did not overfund its federal accounts. If the MNDFL provides no additional documentation, the Audit staff recommends that the MNDFL reimburse the non-federal accounts \$277,103.

Legal Standard

A. Accounts for Federal and Non-Federal Activity. A party committee that finances political activity in connection with both federal and non-federal elections may establish two accounts (federal and non-federal) and allocate shared expenses - expenses that simultaneously support federal and non-federal election activity - between the two accounts. Alternatively, the committee may conduct both federal and non-federal activity from one bank account, which is considered a federal account. 11 CFR §102.5(a)(1)(i).

B. Federal v. Non-Federal Account. The federal account may contain only those funds that are permissible under the federal election law. The non-federal account may contain funds that are not permitted under the federal law (but are legal under state law), such as contributions that exceed the limits of the federal law and contributions from otherwise prohibited sources, such as corporations and labor organizations. 11 CFR §102.5(a)(1)(i) and (a)(3).

C. Transfers. Generally, a political committee may not transfer funds from its non-federal account to its federal account, except when the committee follows specific rules for paying for shared federal/non-federal election activity. 11 CFR §§102.5(a)(1)(i) and 106.5(g).

D. Paying for Allocable Expenses. The Commission regulations offer party committees two ways to pay for allocable, shared federal/non-federal expenses.

- They may pay the entire amount of the shared expense from the federal account and transfer funds from the non-federal account to the federal account to cover the non-federal share of that expense; or
- They may establish a separate allocation account into which the committee deposits funds from both its federal and non-federal accounts solely for the purpose of paying the allocable expenses of shared federal/non-federal activities. 11 CFR §106.5(g)(1)(i) and (ii)(A).

E. Reporting Allocable Expenses. A political committee that allocates federal/non-federal expenses must report each disbursement it makes from its federal account (or separate allocation account) to pay for a shared federal/non-federal expense. Committees report these kinds of disbursements on Schedule H-4. 11 CFR §104.17(b).

F. Salaries and Wages. Committees must keep a monthly log of the percentage of time each employee spends in connection with a Federal election. Employees who spend 25 percent or less of their compensated time in a given month on Federal election activity or on activities in connection with a Federal election must either be paid only from the Federal account or be allocated as an administrative cost. 11 CFR §106.7(d)(1).

Facts and Analysis

A. Facts

The MNDFL reported a total of \$1,055,437 as the non-federal share of allocated activity and reported \$1,041,688 in transfers from the non-federal accounts to the federal accounts, resulting in an underfunding of \$13,748. The Audit staff did not find any documentation to support the amounts transferred from the non-federal accounts to reimburse the federal account for the non-federal share of allocated activity.

The MNDFL used a single Payroll account to pay employee salaries (both 100 percent federal and 100 percent non-federal – no employee salaries were allocated) and related taxes. The MNDFL paid employee benefits out of a federal administrative account and transferred funds from the federal and non-federal accounts to the Payroll account to pay salaries and taxes. The MNDFL did not report any of the non-federal payroll activity. The Audit staff identified total non-federal payroll expenditures of \$1,129,157, including \$756,744 for salaries, \$226,155 for taxes and \$146,257 for benefits. The MNDFL transferred a total of \$1,215,520 from the non-federal accounts to the Payroll account for its share of payroll, resulting in an overfunding of \$86,363 for the non-federal portion.⁹

⁹ See committee statement concerning the Payroll account on page 8.

Transactions with limited documentation

The MNDFL reported \$51,105 as federal activity paid from the non-federal accounts. Due to the lack of supporting documentation, the Audit staff was unable to determine if the MNDFL reimbursed the non-federal accounts for any of this reported federal activity.

The MNDFL also made unsupported transfers from the non-federal accounts to the federal accounts totaling \$38,263 for 2007 and \$115,120 for 2008. Due to the lack of supporting documentation, the Audit staff was unable to determine if the transfers from the non-federal account were for the non-federal portion of shared activity.

When this reported federal activity paid from the non-federal accounts and the unsupported transfers from the non-federal accounts are included with reported shared activity and non-federal payroll activity, it appears that the committee overfunded the federal accounts by \$277,103.

However, it is noted that the Audit staff identified a total of \$103,450 in transfers from the federal accounts to non-federal accounts that lacked adequate supporting documentation detailing the purpose of the transfer. If supported by documentation that shows the transfers were related to any of the activity noted above, the amount of overfunding by the non-federal accounts may be reduced.

In summary, the overfunding by the non-federal accounts is due to:

Underfunding of non-federal portion of shared activity	(\$ 13,748)
Overfunding of non-federal payroll	86,363
Unsupported transfers from non-federal accounts	153,383
Reported federal activity paid from non-federal accounts	<u>51,105</u>
Total over-funding by the non-federal account	<u>\$ 277,103</u>

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff provided the MNDFL representatives with workpapers detailing the transfer activity noted above. Committee representatives provided no additional comments.

The Audit staff recommends that, within 30 calendar days of receipt of this report, the MNDFL provide documentation that shows:

- the MNDFL did not make disbursements from the non-federal accounts for the purpose of financing federal activity;
- reported federal activity paid from the non-federal accounts was reimbursed by the federal accounts; and
- the unsupported transfers from the non-federal accounts were made for purposes other than federal activity.

In addition, the Audit staff recommends that the MNDFL provide any additional comments and/or documentation that details the purpose of the transfers of \$103,450 made from the federal accounts to the non-federal accounts.

If the MNDFL is unable to provide any documentation to reduce the amount of overfunding noted above, the Audit staff recommends that the MNDFL reimburse \$277,103 to the non-federal account.